

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 2 0 2010

THE ADMINISTRATOR

The Honorable Darrell E. Issa
Ranking Minority Member
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Congressman Issa:

Thank you for your November 24 letter, in which you request that EPA's staff brief the Committee's staff on the agency's steps to address greenhouse gas emissions under the Clean Air Act. EPA's staff would be happy to do that. Please ask the Committee's staff to contact Cheryl Mackay in EPA's Office of Congressional Affairs to schedule the briefing. Ms. Mackay can be reached at (202) 564-7178.

I appreciate your observation that regulatory uncertainty discourages capital investment. As you know, EPA recently clarified the Clean Air Act permitting requirements that apply to greenhouse gas emissions increases from large facility construction projects (and also clarified that the requirements do not apply to small facilities). In particular, EPA issued a guidance document last month, in anticipation of greenhouse gas emissions becoming part of Clean Air Act pre-construction permitting for some facilities on January 2, 2011. That document was the product of extensive EPA engagement with stakeholders, including affected companies. If EPA were, as you request in your letter, to reopen the guidance document for another sixty days now, then companies would enter the period that begins on January 2 burdened by the regulatory uncertainty that you seek to avoid.

Many regulated companies view as manageable the permitting requirements that EPA has articulated. For example, Entergy, Constellation Energy, Austin Energy, Exelon, NextEra Energy, National Grid, PSEG, New York Power Authority, Calpine, PG&E, Avista, and Seattle City Light wrote that "EPA has proposed a reasonable approach focusing on improving the energy efficiency of new power plants and large industrial facilities. This will not result in the devastating economic impacts that some are suggesting. As EPA and the states implement the rules, we look for them to continue this reasoned approach."¹

Assuming that the new, modest requirements are allowed to stand, companies will enjoy the regulatory certainty necessary to invest in job-creating projects. But if the new requirements were delayed, the result would be regulatory uncertainty discouraging job-creating investment.

¹ November 12, 2010 statement by The Clean Air Policy Initiative of The Clean Energy Group.

As the U.S. Court of Appeals for the Fourth Circuit has written, “Without a single system of permitting, it would be virtually impossible to predict the standard for lawful emissions.”²

The Small Business Majority and the Main Street Alliance point to another way that delay would hurt American jobs. They write that any step to “delay or limit [EPA’s] ability to regulate greenhouse gas emissions and other pollution ... has negative implications for many businesses, large and small, that have enacted new practices to reduce their carbon footprint as part of their new business models. It would also hamper the growth of the clean energy sector of the economy – a sector that a majority of small business owners view as essential to their ability to compete.”³

Similarly, the Biomass Power Association, the Solar Energy Industries Association, and the American Wind Energy Association point out that a delay of two years actually would “extend[] the uncertainty around reducing global warming pollution through the Clean Air Act far longer than two years” and “would only provide a boost to foreign renewable energy industries, located in countries that already regulate greenhouse gas emissions. This further disadvantages our own businesses and economy.”⁴

Thank you again for your letter. I look forward to working with you in the New Year.

Sincerely,



Lisa P. Jackson

cc: The Honorable Edolphus Towns, Chairman

² *N.C. ex rel. Cooper v. Tenn. Valley Auth.*, 615 F.3d 291, 306 (4th Cir. 2010).

³ *The Clean Air Act’s Economic Benefits: Past, Present, and Future*, October 2010.

⁴ Letter to Senator Jay Rockefeller, September 7, 2010.